

## Bipartisan Group of Lawmakers Urge House Leaders to Protect Patents

Tuesday, February 02 2010

WASHINGTON, DC &ndash; Today, Representatives Mike Michaud (D-ME) and Don Manzullo (R-IL) joined with Dana Rohrabacher (R-CA) and Marcy Kaptur (D-OH) to send a letter to congressional leaders urging them to make strong patent protection policy an important part of economic recovery efforts. The lawmakers also expressed their opposition to past patent reform efforts and concerns they have with the current bills moving forward.

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&ldquo;In light of persistently high unemployment and a slow economic recovery, we write to underscore the importance of protecting U.S. intellectual property standards as a way to help U.S. businesses and create U.S. jobs,&rdquo; the lawmakers wrote. &ldquo;The recession has illustrated the need for the U.S. to maintain a diverse economy and promote policies that encourage American companies to research, develop, and manufacture products in the United States. Key to these pro-growth policies are strong patent protections that ensure the patent application process is efficient and fair for big and small companies alike.&rdquo;

The full text of the letter can be found below:

February 2, 2010

Dear Speaker Pelosi, Majority Leader Hoyer, and Minority Leader Boehner:

In light of persistently high unemployment and a slow economic recovery, we write to underscore the importance of protecting U.S. intellectual property standards as a way to help U.S. businesses and create U.S. jobs. The recession has illustrated the need for the U.S. to maintain a diverse economy and promote policies that encourage American companies to research, develop, and manufacture products in the United States. Key to these pro-growth policies are strong patent protections that ensure the patent application process is efficient and fair for big and small companies alike.

In the 110th Congress, the House passed a misguided patent reform bill to which we had strong objections. The Patent Reform Act of 2007 would not have improved the quality of patents or reduced the cost of patent litigation. Instead, it would have increased uncertainty among patent holders; reduced patent value; reduced investment in research and development; and, therefore, further hindered the development of U.S. manufacturing. Both the House and the Senate are currently considering a similar set of proposals. The Patent Reform Act of 2009 (H.R. 1260 and S. 515) was, as introduced, troubling for a number of reasons. Although the Senate Judiciary Committee has made significant improvements to the bill on the issue of damages by codifying the so-called Georgia-Pacific factors that create a &ldquo;gatekeeper&rdquo; function requiring judges to better instruct juries based on the specific evidence presented, there are still several hurdles to an acceptable bill.

Patent reform continues to be an apportionment-centric system of patent damages and expanded administrative challenges, including a post-grant review process and an expansion of inter partes reexamination. An apportionment-centric system of damages ignores the fact that current patent protections adequately take into account apportionment concerns and would reduce the overall value of patents. A post-grant review process and inter partes reexamination changes seem wholly unnecessary, given they will not reduce patent litigation and that the U.S. Patent and Trademark Office (PTO) already has a reexamination process. In addition, these changes are likely to lead to increased strategic

patenting by big companies and allow foreign competitors to easily and cheaply challenge U.S. patents. Any patent reform bill that contains these provisions will be damaging to U.S. innovation and manufacturing.

Some patent holders have additional concerns, including the potential move to a "first to file" system and the appropriate penalty for willful infringement. Congress should hear from each affected group and consider their input carefully through open hearings. We urge to you encourage the House Judiciary Committee to schedule hearings that will bring these issues to light and facilitate a full, open dialogue.

As House leadership continues to work with the Senate on legislation to promote job creation, we urge you to remember the importance of patent protections as a part of American economic growth and development. Reliable intellectual property protections are critical to incentivizing American companies to research, develop, and manufacture goods in the United States. In addition, they are imperative for protecting our U.S. businesses in the face of our foreign competitors. As such, strong patent protection policy must be a crucial part of our economic recovery, and we look forward to working with you to ensure that it is.

Thank you for your consideration of our request.

Sincerely,

Michael Michaud

Donald Manzullo

Marcy Kaptur

Dana Rohrabacher

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